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10/729,258

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Dan Bradley O'Bryan

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EXAMINER

CHOU, ANDREW Y

ART UNIT

PAPER NUMBER

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/729,258

Applicant(s)

O'BRYAN ET AL.

Examiner

Andrew Y. Chou

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is response to Applicant's amendment dated 04/13/2007. Claims 1 and 11-21 have been amended.
2. Claims 1-26 remain pending in the application.

Response to Arguments

3. Applicant's Remarks filed on 04/13/2007 have been fully considered but they are not persuasive.

At page 11, 1st paragraph of the Remarks section, Applicant contends that Boehm does not disclose the claimed embodiments of the present invention which "expressly require that the desired version of the code used in building the software application be selected by the first computing device and built on the second computing device." The Examiner respectfully disagrees and points to Boehm, FIG. 4, elements 100, "create build-list", 202, "make directory structure"; Col 7, lines 44-55, "the build list is provided to the workstation and the present invention constructs a directory structure and links from the build list to the appropriate files".

Applicant also contends at page 11, 2nd paragraph that Boehm fails to disclose a "selectable" version of the application as amended in claims 1 and 11-14. However, Examiner respectfully disagrees and points to Boehm Col 1, lines 30-37, "the most useful CASE tools are capable of selecting identified items and modules...".

In regards to claims 15 and 21, Applicant argues that Obilisetty is “silent to the use of these files in building a software application on two computing devices.” In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., building a software application on two computing devices) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claim language of newly amended claims 15 and 21 recite “first and second files are accessed by a first computing device to enable the building on of an application on a second computing device.” The claim language calls for the use of the files in building a software application on only one computing device. Obilisetty does indeed disclose the use of two files (see for example Figure 3A, items 310, 320, “XML Files”, and associated text) wherein said first and second files are accessed by a first computing device to enable the building of an application on a second computing device (see for example Figure 2, Figure 3A, page 3, [0027], and associated text).

Applicant also argues that “Obilisetty also does not address the use of the two files as a means of configuring the parameters necessary for such a build.” However, Examiner points to Obilisetty page 5, [0048], “The set of XML files correspond to a first application A...XML files are assembled with agent to create application A...” and [0051], and associated text.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-11 are rejected under 35 U.S.C 102(b) as being anticipated by Boehm et al. US 6,457,170 B1 (hereinafter Boehm).

Claim 1:

Boehm discloses a method of building an application having one or more versions, said method including the steps of:

providing a first computing device (see for example FIG. 1, item 10, "workstation" and related text);

providing a second computing device having a controlling process for an environment said environment having parameters, said controlling process managing at least one group of servers in said environment (see for example FIG. 1, item 30, "Network Controller", and related text);

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selecting at least one file directed to a selectable version (Col 1, lines 30-37, "the most useful CASE tools are capable of selecting identified items and modules...".

) of said application from said one or more versions using said first computing device for the purpose of building the selectable version of the application on said second computing device (see for example FIG. 4, elements 100, "create build-list", 202, "make directory structure"; Col 7, lines 44-55, "the build list is provided to the workstation and the present invention constructs a directory structure and links from the build list to the appropriate files");

deleting said at least one group of servers which are associated with the application using said controlling process (see for example FIG. 9, step 468, and related text);

creating at least one new server group in the environment (see for example FIG. 2, step 100, and related text); and

building said selectable version of said application on said second computing device (see for example FIG. 2, step 300, and related text).

Claim 2:

Boehm further discloses the method of claim 1 wherein said deleting step comprises the additional step of:

including as said at least one file an environmental-configuration file which includes a plurality of environmental configurations for the parameters of the controlling process environment (see for example column 5, lines 30-43, "software configuration controller").

Claim 3:

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Boehm further discloses the method of claim 2 including the step of:
using said environmental-configuration file to message the controller to
accomplish the deleting step (see for example column 5, lines 30-43, FIG. 9, step
468, and related text).

Claim 4:

Boehm further discloses the method of claim 2 including the step of:
including scripts within said environmental-configuration file (see for example
column 5, lines 30-43);
using said scripts to message the controller to accomplish the deleting step (see
for example column 5, lines 30-43).

Claim 5:

Boehm further discloses the method of claim 4 comprising the additional step of:
using said scripts to configure new server groups in the environment (see for
example column 7, line 56- column 8, line 10).

Claim 6:

Boehm further discloses the method of claim 4 comprising the additional step of :
providing a command interface for enabling said scripts to message said
controller (see for example FIG. 3, and related text).

Claim 7:

The method of claim 6 comprising: selecting Pathcom as the command interface
which is provided for enabling said scripts to message said controller (see for
example FIG. 3, and related text).

Claim 8:

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Boehm further discloses the method of claim 1 comprising:

providing a scheduler (see for example FIG. 4, step 100, and related text);

creating a build schedule using said scheduler (see for example FIG. 4, step 202, and related text);

repeating the selecting, deleting, and building steps according to said build schedule (see for example FIG. 4, and related text).

Claim 9:

Boehm further discloses the method of claim 8 including the step of:

creating said build schedule such that the selecting locating, deleting, and building steps to occur daily (see for example FIG. 4, and related text).

Claim 10:

Boehm further discloses the method of claim 1 comprising:

enabling the selecting locating, deleting, and building steps to occur on-demand (see for example FIG. 4, and related text).

Claim 11:

Boehm further discloses the method of claim 1 including the additional steps of:

checking said selectable version (Col 1, lines 30-37, "the most useful CASE tools are capable of selecting identified items and modules...") of said application into a version control system (see for example FIG. 6, step 214, and related text);

associating the selectable version with a tag (see for example FIG. 6);

referencing said selectable version in a version control system using said tag in order to accomplish said selecting step (see for example FIG. 6, and related text).

6. Claims 15-26 are rejected under 35 U.S.C 102(b) as being anticipated by Obilisetty US 2004/0268344 A1 (hereinafter Obilisetty).

Claim 15:

Obilisetty discloses one or more computer-storage media having computer-executable instructions embodied thereon to perform a method (see for example Figure 2, items 190a, 190b, and related text), comprising:

providing a first file (see for example Figure 3A, items 310, 320, "XML Files", and associated text) that substantially includes only the parameters for configuration of an application that do not depend upon a specific environment;

providing a second file (see for example Figure 3A, items 310, 320, "XML Files", and associated text) that substantially includes only the parameters for configuration of said application that are environment-specific (see for example Figure 3A, item 320, and related text);

wherein said first and second files are accessed by a first computing device to enable the building of an application on a second computing device (see for example Figure 2, Figure 3A, page 3, [0027], and associated text).

Claim 16:

Obilisetty further discloses the computer-storage media of claim 15 in which said first and second files are XML files (see for example Figure 3A, items 310, 320, and related text).

Claim 17:

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Obilisetty further discloses the computer-storage media of claim 15 in which the second file further comprises: a label for identifying an environment into which the application is to be run (see for example page 5, [0051]); a group of environmental parameters which are specific to the environment, but not specific to the application (see for example Figure 3C, and related text); and a group of application parameters which are specific to the environment (see for example page 5, [0051]).

Claim 18:

Obilisetty further discloses the computer-storage media of claim 17 in which said second file further comprises: a number of parameters specific to at least one server (see for example Figure 3A, and related text).

Claim 19:

Obilisetty further discloses the computer-storage media of claim 18, further comprising: a set of scripts that accept the first and second files as inputs to create output files that are useable in the second computing device (see for example Figure 3A, item 205, and related text).

Claim 20:

Obilisetty further discloses the computer-storage media of claim 15 in which the environmental requirements of an environment in the second computing device may be configured by editing said second file in said first computing device making the application dynamically adaptable to multiple environments in the second computing device (see for example Figure 5, steps 530, 540, and related text).

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Claim 21:

Obilisetty discloses one or more computer-storage media (see for example Figure 1, and related text) having computer-executable instructions embodied thereon for performing a method of building an application, said method comprising:

providing a first file first file (see for example Figure 3A, items 310, 320, "XML Files", and associated text) that substantially includes only the parameters for configuration of an application that do no depend upon a specific environment; providing a second file file (see for example Figure 3A, items 310, 320, "XML Files", and associated text) that substantially includes only the parameters for configuration of said application that are environment-specific (see for example Figure 3A, item 320, and related text);

a first computing device utilizing said first and second files to access selectable files to enable the building an application on a second device (see for example Figure 2, Figure 3A, page 3, [0027], and associated text).

Claim 22:

Obilisetty further discloses the computer-storage media of claim 21, further comprising:

creating said first and second files in XML (see for example Figure 3A, items 310, 320, and related text).

Claim 23:

Obilisetty further discloses the computer-storage media of claim 22, further comprising:

identifying an environment into which the application is to be run using a label (see for example page 5, [0051]); including a group of environmental parameters in said second file which are specific to the environment, but not specific to the application (see for example Figure 3C, and related text); and including a group of application parameters in said second file which are specific to the environment (see for example page 5, [0051]).

Claim 24:

Obilisetty further discloses the computer-storage media of claim 23, further comprising:

including a number of parameters specific to at least one server in said second file (see for example page 5, [0051]).

Claim 25:

Obilisetty further discloses the computer-storage media of claim 24, further comprising:

including in said second file a script that accepts the first and second files as inputs to create output files that are useable in the second computing device (see for example Figure 4, and related text).

Claim 26:

Obilisetty further discloses the computer-storage media of claim 21, further comprising: dynamically adapting the computing device by editing said second file application to multiple environments in said second file (see for example page 5, [0051]).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boehm et al. US 6,457,170 B1 (hereinafter Boehm) in view of Obilisetty US 2004/0268344 A1 (hereinafter Obilisetty).

Claim 12:

Boehm does not disclose the method of claim 1 comprising:

including in said selectable version of the application an environmental-configuration containing XML file. However, Obilisetty in the same analogous art of distributing applications to computer systems discloses a method comprising: including in said selectable version of the application an environmental-configuration containing XML file (see for example Figure 3A, item 310, and related text). Therefore, at the time the invention was made it would have been obvious to a person of ordinary skill in the art to modify the teachings of Boehm to include such a method as disclosed above by Obilisetty. One would be motivated to do so to take advantage of the additional functionality provided by the method taught in Obilisetty to further enhance the system disclosed in Boehm (see for example Obilisetty page 5, [0048]).

Claim 13:

Boehm does not disclose the method of claim 12 comprising:

including in said selectable version of the application an object-XML file.

However, Obilisetty in the same analogous art of distributing applications to computer systems discloses a method comprising: including in said selectable version of the application an environmental- configuration containing XML file (see for example Figure 3A, item 310, and related text). Therefore, at the time the invention was made it would have been obvious to a person of ordinary skill in the art to modify the teachings of Boehm to include such a method as disclosed above by Obilisetty. One would be motivated to do so to take advantage of the additional functionality provided by the method taught in Obilisetty to further enhance the system disclosed in Boehm (see for example Obilisetty page 5, [0048]).

Claim 14:

Boehm does not disclose the method of claim 13 comprising:

including with said selectable version of said application a plurality of XSL files.

However, Obilisetty in the same analogous art of distributing applications to computer systems discloses a method comprising: including in said selectable version of the application an environmental- configuration containing XML file (see for example Figure 3A, item 310, and related text). Therefore, at the time the invention was made it would have been obvious to a person of ordinary skill in the art to modify the teachings of Boehm to include such a method as disclosed above by Obilisetty. One would be motivated to do so to take

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advantage of the additional functionality provided by the method taught in Obilisetty to further enhance the system disclosed in Boehm (see for example Obilisetty page 5, [0048]).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry of a general nature of relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is (571) 272 2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information

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for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

AYC



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